

ACTION: Notice.

SUMMARY: The Department of Transportation intends to conduct a review of its existing regulations and its current Regulatory Agenda. As part of this review, the Department invites the public to participate in a comment process designed to (1) help the Department improve its rules to make them more effective and less costly or burdensome, (2) identify rules no longer needed and/or new rules that may be needed, and (3) help the Department prioritize its rulemaking activities. The Department also intends to hold a public meeting to discuss and consider the public's comments.

DATES: Comments should be received on or before April 29, 2005. Late-filed comments will be considered to the extent practicable. In addition, the Department intends to hold a public meeting on April 12 and 19, 2005, in Washington, DC, to discuss public comments. Commenters wishing to have time allocated to them at the public meeting should submit initial comments by February 25, 2005, and clearly indicate their desire to have time allocated at the public meeting.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST-2005-20112) by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the name of the DOT agency that has issued the rule to which the comment pertains and the docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of
Transportation

[Docket No. OST-2005-20112]

Notice of Regulatory Review

AGENCY: Office of the Secretary of
Transportation (OST), DOT.

Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You can access the docket for this notice by inserting the five-digit docket number into the DMS "quick search" function.

FOR FURTHER INFORMATION CONTACT:

Karen Starring, Attorney Advisor, Office of General Counsel, Department of Transportation, 400 7th St., SW., Room 10424, Washington, DC 20590-0001. Telephone (202) 366-4723. E-mail karen.starring@ost.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

In addition to the Office of the Secretary (OST), the Department of Transportation (Department or DOT) includes the Bureau of Transportation Statistics (BTS) and the following operating administrations (OAs): Federal Aviation Administration (FAA); Federal Highway Administration (FHWA); Federal Motor Carrier Safety Administration (FMCSA); Federal Railroad Administration (FRA); Federal Transit Administration (FTA); Maritime Administration (MARAD); National Highway Traffic Safety Administration (NHTSA); Research and Special Programs Administration (RSPA); and St. Lawrence Seaway Development Corporation (SLSDC). While RSPA and BTS are being reorganized into two new operating administrations as the result of recently-enacted legislation, for commenters' convenience we believe it is sensible to have comments refer to the names of DOT organizations as they were when rules were promulgated.

Each of these elements of DOT has statutory responsibility for a wide range of regulations. For example, DOT regulates safety in the aviation, motor carrier, railroad, mass transit, motor vehicle, commercial space, and pipeline transportation areas. DOT regulates aviation consumer and economic issues, and provides financial assistance and writes the necessary implementing rules for programs involving highways, airports, mass transit, the maritime industry, railroads, and motor vehicle safety. It writes regulations carrying out such disparate statutes as the Americans with Disabilities Act and the Uniform Time Act. Finally, DOT has responsibility for developing policies that implement a wide range of regulations that govern internal programs such as acquisition and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset

management, seismic safety, security, and the use of aircraft and vehicles.

Improvement of our regulations is a continuous focus of the Department. There should be no more regulations than necessary and those that are issued should be simpler, more comprehensible, and less burdensome. Most rules are issued following notice to the public and opportunity for comment. Once issued, rules should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help implement this goal, the Department wants to obtain written public comments and to hold a public meeting in Washington, DC, on April 12 and 19, 2005 on how to (1) improve our rules to be more effective and less costly or burdensome, (2) identify rules no longer needed and/or new rules that may be needed, and (3) help prioritize our current rulemaking activities, which are set forth in our semi-annual Regulatory Agenda (69 FR 73492, Dec. 13, 2004).

The Department's General Counsel will preside over the public meeting. Senior officials of the Department's operating administrations also will attend this meeting. Because seating may be limited, the Department will reserve seats for participants, and seats for attendees will be available on a first-come, first-serve basis. Please note that seats may become available throughout the public meeting as attendees come and go.

Existing Reviews of Rules

The Department regularly makes a conscientious effort to review its rules. We accomplish this in a number of ways. First, we have a 10-year plan for the review of our existing regulations, (see Appendix D to our semi-annual Regulatory Agenda published in the *Federal Register* on December 13, 2004 (69 FR 73492)). We regularly invite public participation in those reviews as well as seeking general suggestions on rules that should be revised or revoked. Under 49 CFR part 5, anyone may petition the Department for rulemaking or for an amendment or exemption to a rule. Some of our operating administrations may also conduct periodic public reviews to focus on specific issues or to obtain comments on rulemaking priorities. For example, on February 25, 2004, FAA requested comments from the public to assist it in identifying those regulations currently in effect that it should amend, remove, or simplify (see 69 FR 8575). It is not necessary for the commenters to resubmit those comments unless the

commenter desires to provide additional information or to request time during the public meeting. The Department will obtain copies of comments submitted in response to FAA's request and include them in its review.

We have also worked closely with the Office of Management and Budget (OMB) to identify rules appropriate for review and reform. Beginning in 2001, OMB has sought comments from the public on Federal agency rules and guidance that should be reviewed. In 2002, OMB initially referred 38 rules to the Department as possible candidates for reform. Subsequently, OMB has referred additional rules. As of OMB's 2003 report to Congress, DOT had completed, initiated, or planned action for 27 regulatory items, was still considering whether to take action on 13 items, and had decided against taking further action on 13 items. More recently, in connection with OMB's 2004 report to Congress, OMB has provided DOT with another 13 items that relate to manufacturing, and we are considering those. Any items previously submitted to OMB in writing need not be resubmitted, as the Department has received those.

As with regard to the OMB regulatory review nominations process, the Department takes seriously its task of ensuring that its regulations meet the objectives of efficiency, effectiveness, fairness, and practicality. At the same time, it would be very useful to encourage broader participation in the review of the Department's rules than we have received in the past. For example, most of the comments to OMB about the Department's rules came from one public advocacy organization, one state Department of Transportation, and one aircraft manufacturer. While we welcome and appreciate the input of those commenters, we note that other stakeholder groups, associations, and individuals provided only a few comments. Most trade associations, interest groups, and consumer groups, and most individual regulated parties—whether public or private sector organizations—did not comment through the OMB process. The Department strongly encourages all parties affected by DOT regulations to comment in response to this notice, so that the Department has as much information as possible on which to base decisions about the future course of its regulatory reform and improvement efforts.

Our Current Review Plan

We recognize that, in carrying out our important regulatory responsibility, DOT has a large amount of rulemaking

activity. For example, we have 89 ongoing significant rulemaking entries on our current Regulatory Agenda and we have issued 85 significant final rules in the last three years. Thus, in making plans for the next few years, the Secretary wants the Department to add to and improve our earlier efforts to review our existing rules, and to provide this additional opportunity for public participation. Hopefully, this will also provide a better opportunity for an exchange of views among participants in the process. For example, the public meeting will provide an opportunity for those affected by our regulations to directly communicate with the Department's senior officials. We are looking forward to positive exchanges that will provide us with a "real world" perspective and data, with in-depth analysis of perceived problems.

For existing regulations, public comments might usefully address, among other things, the following factors: (1) The opportunity to simplify or clarify language in a regulation; (2) the opportunity to eliminate overlapping and duplicative regulations, including those that require repetitive filings for conducting business with the Department; (3) the opportunity to eliminate conflicts and inconsistencies in the Department's regulations and those of its agencies; (4) the opportunity to eliminate outdated regulations; (5) the opportunity to reconsider the burdens imposed on those directly or indirectly affected by the regulation and, specifically, those that are costly when compared to the benefit provided; (6) the opportunity to revise regulations in which technology, economic conditions or other factors have changed in the area affected by the regulation; (7) the opportunity to reconsider burdens imposed on small entities, and (8) the opportunity to reconsider federalism or tribalism impacts and pre-emption issues. The Department is also interested in comments about DOT rules that potentially duplicate or conflict with the rules of other Federal agencies or state, local, or tribal governmental bodies. The Department is specifically interested in the public's suggestions for modifications to existing regulations, that would make the rules more cost-effective, cost-beneficial, or less costly; that would effectively improve public benefits; or that would temper disproportionate impacts. Comments will be most helpful if they reference a specific regulation, by CFR cite, and provide the Department information on what needs fixing and why. Comments do not necessarily need to address how

to fix the perceived problem, though such comments are welcome.

In addition, the Department seeks comments on its Regulatory Agenda for the upcoming year. Specifically, the Department seeks public comment on the Department's priorities. Are there rulemakings on which we should place more or less emphasis or give a higher priority in scheduling? Are the Department's rulemaking priorities in line with public need?

In order to make the public meeting beneficial, the Department requests careful analysis of specific regulations and detailed written comments. It is our intent that the public meeting will provide an opportunity for the General Counsel and other Department officials to interact with individuals or stakeholder representatives and to seek clarification and follow-up on comments. To enable those officials to effectively participate in the public meeting, they will need some information in advance of the hearing. As a result, we are establishing the following process.

1. Suggestions for Discussion at Public Meeting:

a. By the end of the first 30 days of the comment period, the Department requests that commenters submit their suggestions for discussion at the public meeting and indicate whether they want time allocated to them at the public meeting. The Department reserves the right to allocate time as necessary to ensure that as many commenters as possible may participate in the public meeting in a meaningful manner. In the event that it becomes necessary to limit the number of participants, the Department initially plans to do so in a first-come, first-serve manner.

b. The initial comments from those intending to participate in the public meeting should contain enough details to permit DOT officials to sufficiently prepare and ask questions.

c. The initial comments may be augmented anytime before the end of the full comment period.

d. Anyone wishing to participate in the public meeting who needs accessibility accommodations, including sign language interpreters, should contact the Department as soon as possible as directed under the For Further Information Contact heading above.

2. Public Meeting:

a. After receiving this initial public comment, the Department will organize those suggestions (including overlapping or duplicate suggestions) by topic and Operating Administration (OA) for discussion during the public meeting.

b. By having the public meeting after receiving initial public comment and by organizing the discussion around topics and OAs, the Department will be in a better position to discuss with commenters the issues with regard to a particular rule, broad category of rules, or affected group or industry, rather than merely recording public comment for later review.

c. The Department plans to hold a public meeting on April 12 and 19, 2005 in Washington, DC, and will provide at least one week's notice of the hearing outline.

d. The meeting will be chaired by the DOT's General Counsel, who has general oversight of the DOT's rulemaking. Other DOT officials will, at a minimum, attend those portions of the meeting pertaining to their areas of responsibility.

3. Other Written Comments:

a. The Department will continue to accept comments through April 29, 2005. Those who do not wish to attend the public meeting may, of course, submit comments at any time during the comment period.

b. This additional time will also allow those who did participate in the meeting to supplement their earlier comments either on their own initiative or in response to comments or questions at the hearing.

c. It will also allow anyone to rebut or otherwise respond to earlier comments submitted in writing or made at the meeting.

4. Follow-up Action by DOT:

a. We will place a transcript of the public meeting in our public docket (<http://dms.dot.gov>) as soon as possible after the end of the hearing. We note that because the docket is Internet accessible, it should allow those with Internet access to review those proceedings as well as other comments. We hope this will further improve the interchange of ideas.

b. This review will provide meaningful and significant input to the Secretary, the General Counsel, and other DOT senior officials. As soon as possible, depending on the number of comments we receive and the issues raised, the Department will publish a report providing at least a brief response to the comments we have received, including a description of any further action we intend to take.

Regulatory Notices

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association,

business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://dms.dot.gov>.

(Authority: 5 U.S.C. 610; E.O. 12866, 58 FR 51735, Oct. 4, 1993.)

Issued this 14th day of January, 2005, in Washington, DC.

Jeffrey A. Rosen,
General Counsel.

[FR Doc. 05-1431 Filed 1-25-05; 8:45 am]

BILLING CODE 4910-62-P
